2008/2009
Report of the LEGAL SERVICES BOARD OF THE NWT

Photo taken by: Shari Olsen, Ft. Smith Court Worker

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THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2007/08 Board was composed of the following:

Ron Holtorf	Chairperson, representing the South Slave Region
Mary Adele Rabesca	Representing the Tłı̨chǫ communities
Karan Shaner	Representing the Public Service
Roy Fabian	Representing the Deh Cho Region
Louis Sebert	Representing the Law Society
Sandra Suliman	Representing the Beaufort Delta Region

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal since 1971. Previously, the Government of Canada was responsible for the administration of justice in the NWT. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates three legal aid clinics; two clinics, one in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides only family law services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act,* RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act,* RSNWT 1988, c. F-4. All Board employees are members of the GNWT Public Service.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act:*

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate Territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

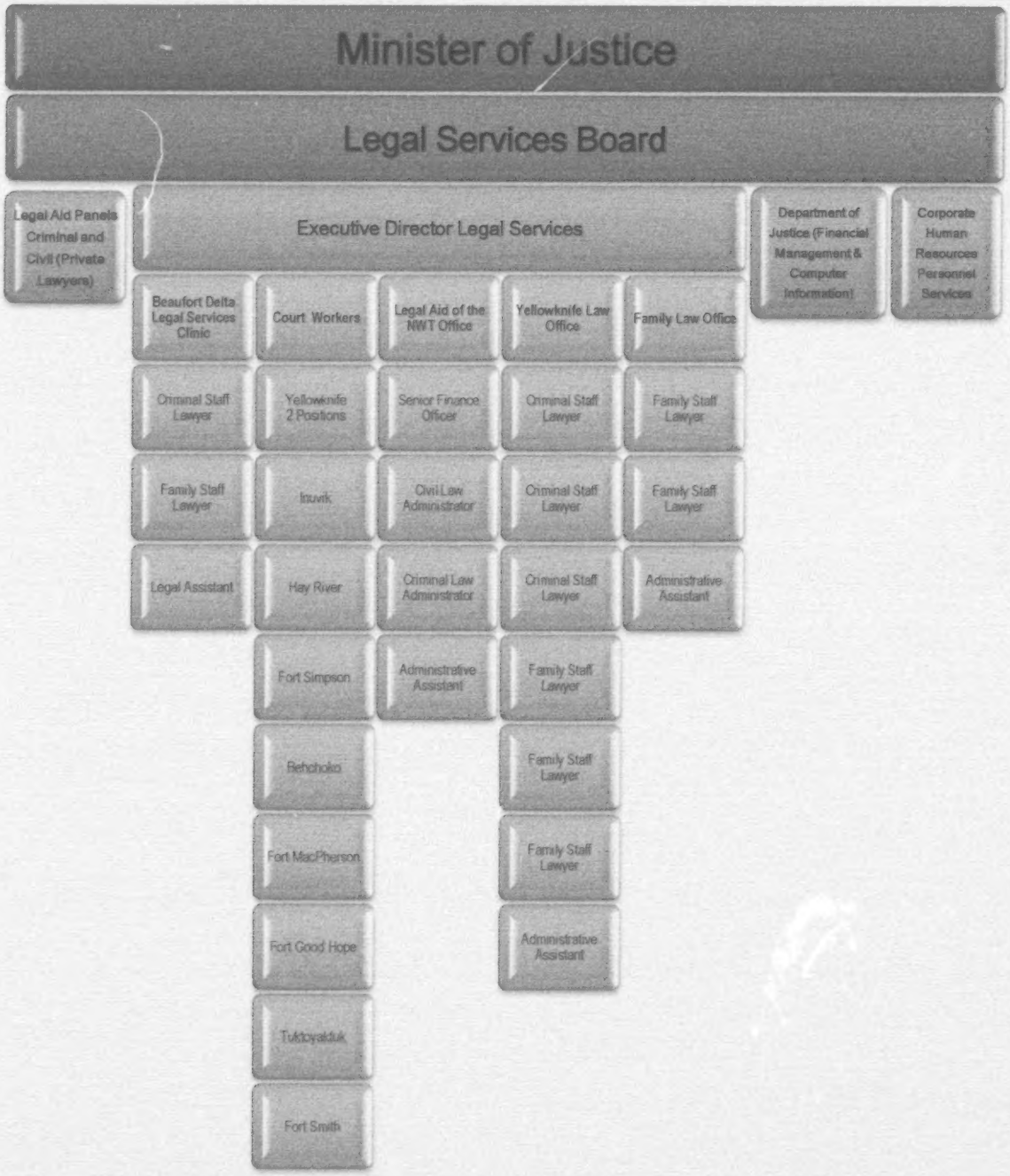
Board Meetings

The Legal Services Board of the NWT met in Yellowknife on two occasions:

July 4-5, 2008
December 4-5, 2008

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2009.



COURT WORKER PROGRAM

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure the applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system particularly in more remote communities which do not have the benefit of resident lawyers and where justice is accessible through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial and Youth Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Photo taken by: Unknown Fort Simpson, NT

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eleven court workers in ten communities in the NWT. Ten are Board employees and one provides services under an agreement with the Hamlet of Ulukhaktok.

The Aboriginal Court worker Program has had Federal financial support since 1978.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways.

The Board worked with the Department of Justice to produce the Family Law Manual which provides comprehensive information on family law matters in the NWT. The volume has been distributed widely throughout the NWT and is also available on line through the Department of Justice website. The court workers were provided training to allow them to assist people to use the book. The demand for this manual both in hardcopy and on line has been significant.

The Board and the Department have also produced and will continue to work on producing shorter brochures based on specific topics included in the larger manual. These will also be available in French and work will be ongoing to make them available in selected aboriginal languages.

As the Law Line is no longer operating, people requiring legal information are being referred to regional court workers who are able to either provide the information required or make the appropriate referrals.

Photo taken by: Jeremy Walsh, Family Law Lawyer

Staff lawyers are providing legal information on an ongoing basis to callers and those referred by court workers.

Court workers, and the staff and lawyers at our legal aid clinics routinely provide basic legal information. In addition, the Board provides pamphlets about individual rights and remedies, court proceedings, and local resources available to its clients.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. The Board does assess family income when looking at eligibility. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or closed or secure custody;

Photo taken by: Unknown
Yellowknife, NT

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. There exist, in the opinion of the Executive Director, special circumstances.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed to be eligible for legal aid and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client will be told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The *Act* and *Regulations* specify that certain civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type when a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage are: Workers' Compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After an application is received for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or family law panel members for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is heard. The NWT program uses this service almost exclusively in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible are sent a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the *Act* and *Regulations*, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants maybe subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act,* is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will provide legal aid services even if the youth may not be financially eligible.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency.

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Photo taken by: Unknown Fort Simpson, NT

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

Yellowknife Law Office

The Yellowknife Law Office provides three family law lawyers, three criminal law lawyers and one support staff member. All Lawyers provide services throughout the NWT.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and has two lawyers and one support staff. The clinic provides services in criminal law and family law primarily in the Beaufort Delta region.

Family Law Clinic

The Family Law Clinic in Yellowknife has two lawyers and one support staff. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

APPEALS

There are a number of situations in which an applicant or a lawyer has a right of appeal from a decision made by the Executive Director. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the *Act*. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. This funding agreement expired March 31, 2007 but has been extended at pre-existing funding levels of $1,972,327. Negotiations between the GNWT and the Federal Department of Justice are ongoing to determine the level of future Federal funding.

Photo taken by: Shari Olsen, Ft. Smith Court Worker

Any deficits incurred by the Legal Services Board have been absorbed by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are public servants in the Department of Justice. The Department of Human Resources provides personnel services to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. An annual audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF*

Experience	Hourly Rates ($)	Daily Rates($)
Student at law	53	307
Less than 4 years	81	465
4-6 years	93	576
7-10 years	114	681
11 & more years	135	805

The rates are the same regardless of the level of court.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2008-2009:

Legal Counsel I	82,037 - 93,054
Legal Counsel II	89,739 - 101,810
Legal Counsel III	98,261 - 111,462
Legal Counsel IV	107,455 – 121,895
Legal Counsel V	112,398 – 127,511

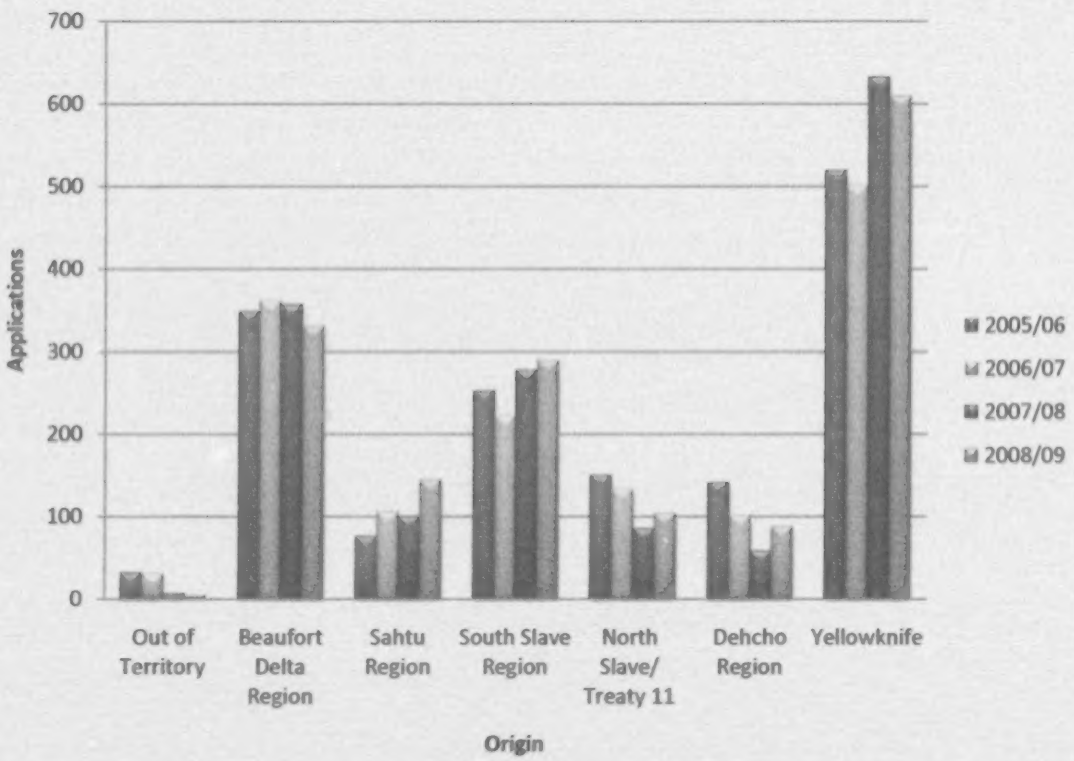
2008/09 Financial Report

	Actual Expense	2008/09 Main Estimate	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	495,877	479,000	16,877
Operations & Maintenance Expenses	54,932	37,000	17,932
Public Education	1,314		1,314
Total Administration	552,123	516,000	36,123
Court Workers			
Staff Wages and Benefits	668,529	1,035,000	366,471
Operations & Maintenance Expenses	145,547	73,000	-72,547
Total Court Workers	814,076	1,108,000	293,924
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,157,354	1,466,000	308,646
Operations, Maintenance and Travel Expenses	110,036	94,000	-16,036
Total Legal Aid Staff Lawyers	1,267,390	1,560,000	292,610
Legal Services Board			
Board Expenses	39,818	-	39,818
	39,818	-	39,818
Legal Aid Fees & Disbursements			
Legal Aid Fees		1,661,000	1,661,000
Travel and Transportation		224,000	224,000
Adult Criminal	832,295	-	-832,295
Youth Criminal	29,395	-	-29,395
Family	50,829	-	-50,829
Civil	7,442		
Circuit	1,052,767	-	-1,052,767
Total Legal Aid Fees & Disbursements	1,972,728	1,885,000	-87,728
TOTAL	4,646,135	5,069,000	-422,865

STATISTICAL REPORTS FOR 2008/09

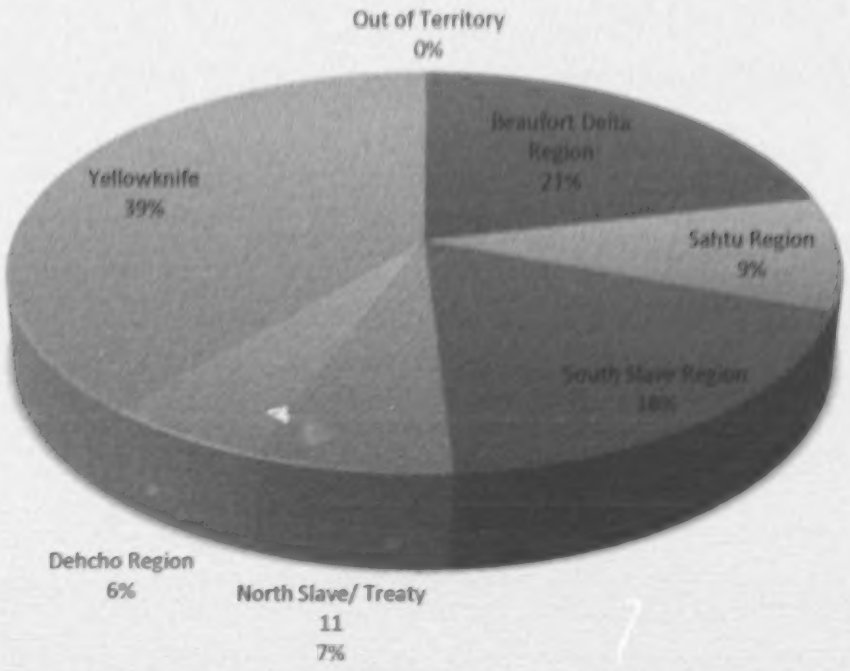
Number of Applications Received

Origin of Application	2005/06	2006/07	2007/08	2008/09
Out of Territory	32	31	7	5
Beaufort Delta Region	349	361	357	331
Sahtu Region	76	106	100	144
South Slave Region	252	222	277	289
North Slave/Treaty 11	150	133	86	104
Dehcho Region	141	101	59	88
Yellowknife	519	501	632	609

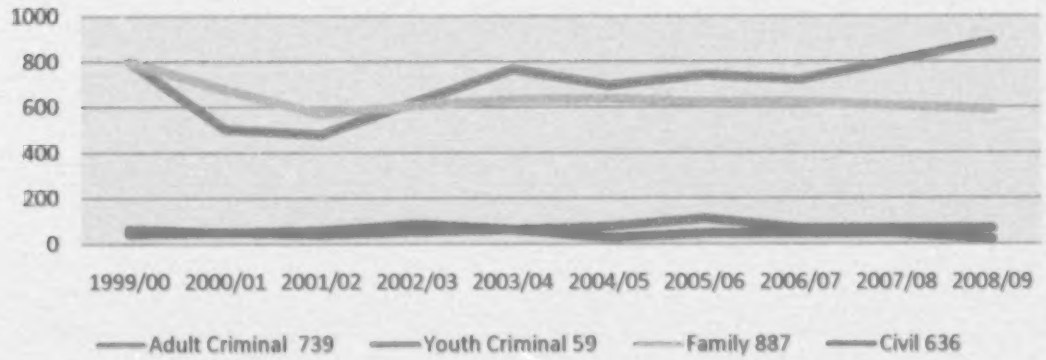


Origin of Application	2008/09
Out of Territory	0%
Beaufort Delta Region	21%
Sahtu Region	9%
South Slave Region	18%
North Slave/ Treaty 11	7%
Dehcho Region	6%
Yellowknife	39%

Origin of Applications by Regions 2008/09



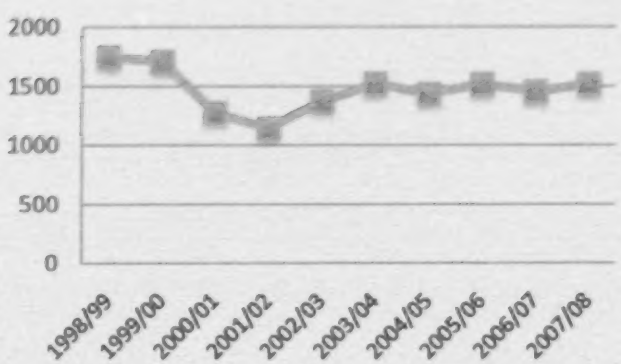
Number of Applications Received by Case Type



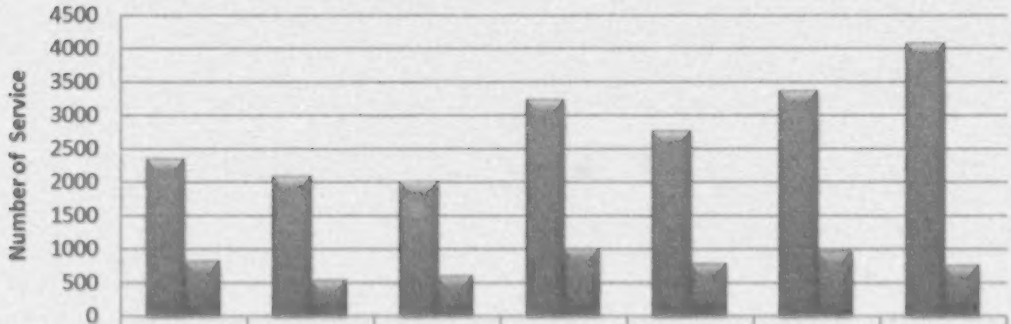
Case Type	1999/00	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09
Adult Criminal	802	503	479	626	766	696	743	721	804	892
Youth Criminal	63	48	57	86	62	75	111	67	69	66
Family	801	676	569	609	633	636	621	621	606	591
Civil	43	50	41	53	61	25	45	46	44	20

Fiscal Year	Applications Received
2008/09	1569
2007/08	1518
2006/07	1455
2005/06	1519
2004/05	1435
2003/04	1522
2002/03	1374
2001/02	1146
2000/01	1277
1999/00	1709
1998/99	1748

Applications Received



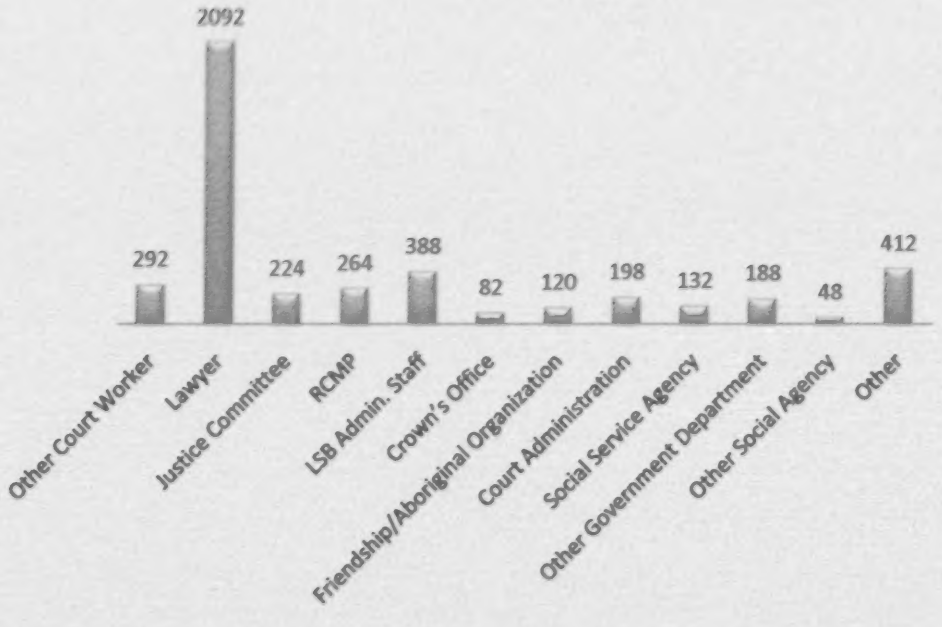
Presumed Eligibility Statistics



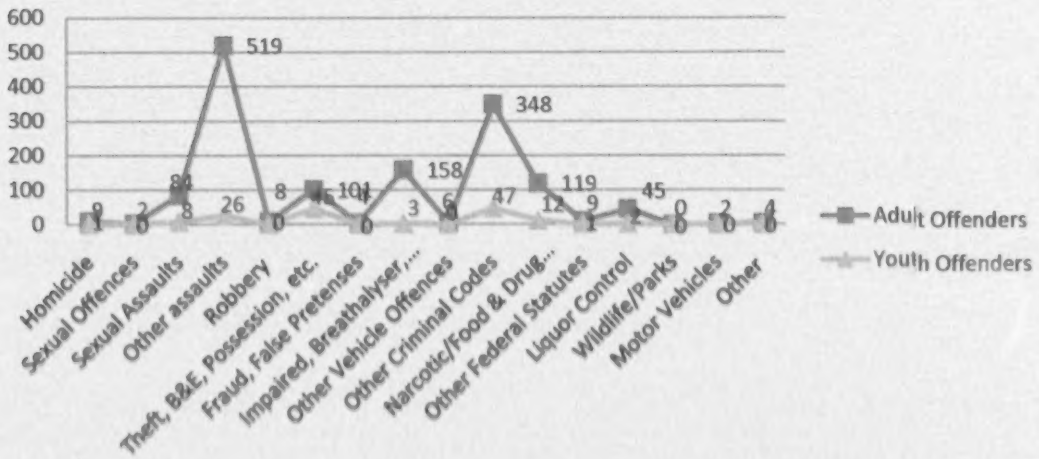
	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09
Adult	2336	2070	1998	3216	2755	3346	4067
Youth	825	532	604	1013	788	962	756

*These numbers reflect total services provided and not individuals who received services. One individual may have been dealt with under the policy on a number of occasions in relation to one charge.

Court Workers community referrals for 2008/2009

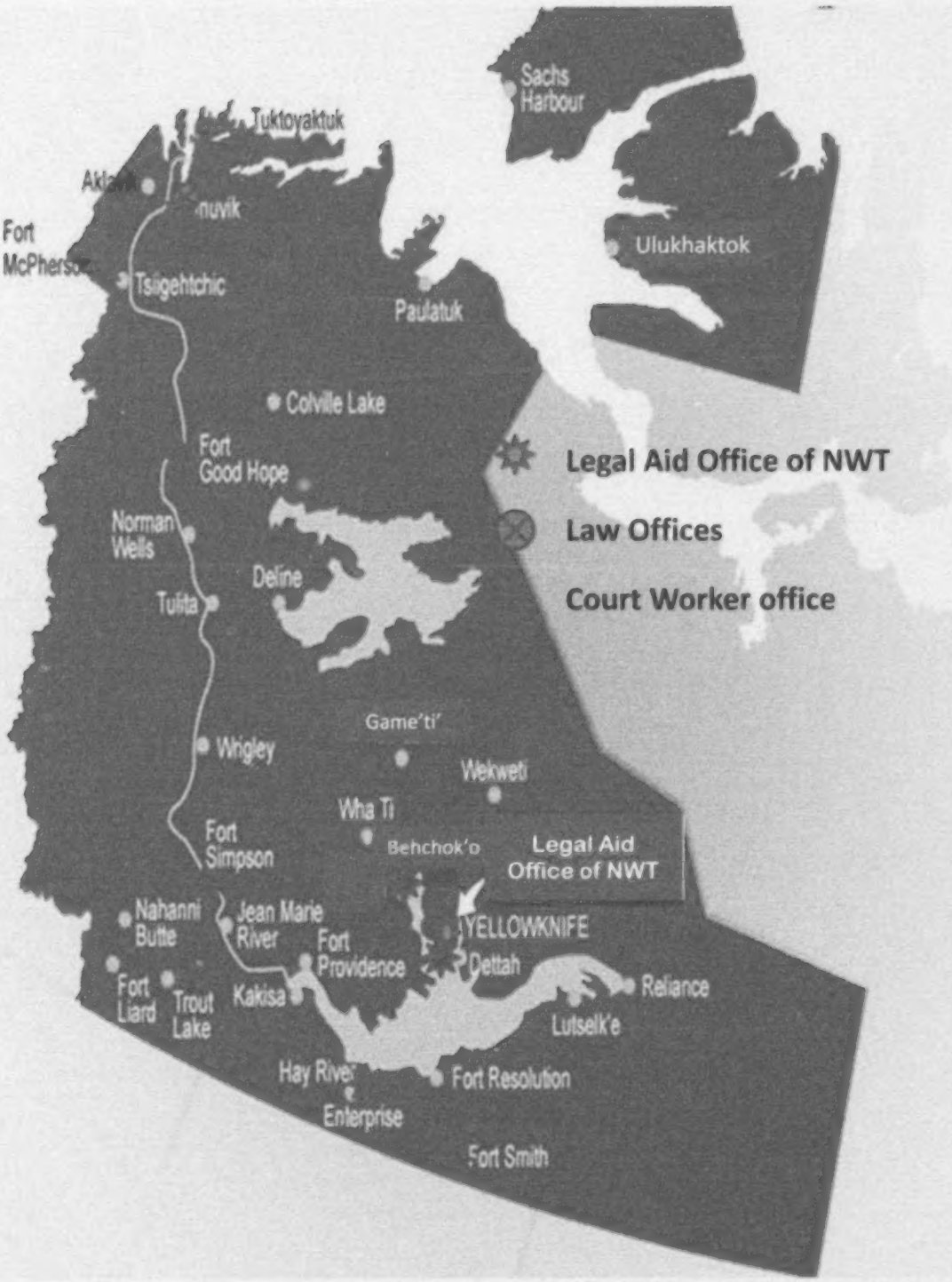


BRYDGES SERVICES
NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER 2008/2009



	Adult	Youth
Homicide	9	1
Sexual Offences	2	0
Sexual Assaults	84	8
Other Assaults	519	26
Robbery	8	0
Theft, B/E, Possession, Etc.	101	45
Fraud, False Pretenses	4	0
Impaired, Breathalyzer, Refusal	158	3
Other Vehicle Offences	6	47
Other Criminal Codes	348	12
Narcotic/Food & Drugs Offences	119	1
Other Federal Statues	9	2
Liquor Control	45	0
Wildlife/Parks	0	0
Motor Vehicles	2	0
Other	4	4
Total	**1418**	**145**

Phone calls received by detained persons that wish to exercise their right to legal advice upon arrest.


Sachs Harbour
Tuktoyaktuk
Aklavik
Inuvik
Fort McPherson
Tsiigehtchic
Paulatuk
Ulukhaktok
Colville Lake
Fort Good Hope
Norman Wells
Deline
Tulita
Wrigley
Game'ti'
Wekweti
Wha Ti
Behchok'o
Fort Simpson
Legal Aid Office of NWT
Nahanni Butte
Jean Marie River
Fort Providence
YELLOWKNIFE
Dettah
Reliance
Fort Liard
Trout Lake
Kakisa
Lutselk'e
Hay River
Fort Resolution
Enterprise
Fort Smith
Legal Aid Office of NWT
Law Offices
Court Worker office

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
YK Centre East 3rd Floor
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

Yellowknife Law Office
YK Centre East – 3rd Floor
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office
Unit 44, 5014-49th Street
Centre Square Mall
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Hay River Court Worker
105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Behchokö Court Worker
General Delivery
Behchokö NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith Court Worker
P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Court Workers
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Fort Simpson Court Worker
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk Court Worker
P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Ulukhaktok Court Worker
P.O. Box 157
Ulukhaktok NT X0E 0S0
Tel: (867) 396-8002
Fax: (867) 396-3256

Inuvik Court Worker
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Fort Good Hope Court Worker
P.O. Box 239
Fort Good Hope NT X0E 0H0
Tel: (867) 598-2762
Fax: (867) 598-2525